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Attorneys for Plaintiffs

IN THE DISTRICT COURT OF GUAM

**ELSA M. SANTOS and GERARDO
SANTOS**

CIVIL CASE NO. CIV

05-00031

Plaintiffs,

vs.

COMPLAINT

DONGBU INSURANCE COMPANY, LTD.,

Defendants.

INTRODUCTION

1. This is an action for damages for personal injuries and loss of consortium arising from a traffic accident.

JURISDICTION

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1364, and 48 U.S.C. §1424, as amended.

PARTIES

3. Plaintiffs Elsa M. Santos and Gerardo Santos are adult individuals, husband and wife and residents of Guam.

4. Defendant Dongbu Insurance Company, Ltd. (hereinafter "Dongbu") is an insurance company licensed to do business on Guam.

ORIGINAL

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4
5 **FACTS**

6 5. On or about November 5, 2003, at approximately 7:37 a.m.,
7 plaintiff Elsa M. Santos was operating a 1994 Nissan Sentra
8 (hereinafter the "Sentra") traveling in an easterly direction by
9 the former Town House in the parking lot of the Agana Shopping
10 Center in Hagatña, Guam.

11
12 6. At all relevant times herein, the Korean Consulate of Guam was
13 a mission within the meaning of section 2(3) of the Diplomatic
14 Relations Act (22 U.S.C. 254a(3)) and was the owner of a 1997 Honda
15 Civic (hereinafter "the Civic").

16
17 7. At all relevant times the Korean Consulate of Guam was under
18 contract with defendant Dongbu Insurance Company, Ltd. to insure
19 the Civic, covering liability for injuries to third persons
20 resulting from operation of the Civic. Said insurance policy was
21 in full force and effect on November 5, 2003.

22
23 8. At all relevant times herein, Miok Myn Kwak was a member of
24 the family of a member of the Korean Consulate of Guam and was
25 operating the Civic with the knowledge and consent of the Korean
26 Consulate of Guam.

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5 9. At said time and place, Miok Myn Kwak was traveling north bound
6 exiting a parking lot area. Miok Myn Kwak failed to use due care
7 in the operation of the Civic, and otherwise failed to operate that
8 vehicle in a careful and prudent manner. Miok Myn Kwak failed to
9 yield to the right of way of plaintiff's oncoming vehicle and
10 disobeyed a STOP sign, thereby causing a violent collision between
11 the Sentra and the Civic.

12
13 10. In operating the Civic in the above-described manner, Miok Myn
14 Kwak violated 16 GCA §3327(b) and other laws of Guam.

15
16 11. As a direct and proximate result of the negligence of Miok Myn
17 Kwak, plaintiff Elsa M. Santos suffered bodily injuries.

18
19 **CLAIMS FOR RELIEF**

20 **FIRST CLAIM - PERSONAL INJURIES OF ELSA M. SANTOS**

21 12. Plaintiffs repeat and reallege each and every allegation of
22 paragraphs 1 through 11 of the Complaint herein.

23
24 13. As a direct and proximate result of the negligence of Miok Myn
25 Kwak, plaintiff Elsa M. Santos suffered severe injuries to her body
26 including, but not limited to, injuries to her neck, back and
27 spine, which has caused and continue to cause severe pain and
28 suffering and a permanent disability.

1 **COMPLAINT**

2 **Santos v. Dongbu Insurance Company, Ltd.**

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5 14. As a further direct and proximate result of the negligence of
6 Miok Myn Kwak, plaintiff Elsa M. Santos has incurred and continues
7 to incur medical and incidental expenses for treatment of her
8 personal injuries in an amount to be proven at trial.

9
10 15. As a further direct and proximate result of the negligence of
11 Miok Myn Kwak plaintiff Elsa M. Santos has lost income, wages and
12 other opportunities in an amount to be proven at trial.

13
14 **SECOND CLAIM - LOSS OF CONSORTIUM**

15 16. Plaintiffs repeat and reallege each and every allegation of
16 paragraphs 1 through 11 and 13 through 15 of the complaint herein.

17
18 17. As a direct and proximate result of the negligence of Miok Myn
19 Kwak and the resulting injuries to plaintiff Elsa M. Santos,
20 plaintiff Gerardo Santos has been deprived and will continue to be
21 deprived of the society, companionship, consortium and services
22 usually provided by a spouse in good health and of unimpaired vigor
23 and strength.

24
25 **THIRD CLAIM - IMPUTED AND DIRECT LIABILITY**

26 18. Plaintiffs repeat and reallege each and every allegation of
27 paragraphs 1 through 11, 13 through 15 and 17 of the complaint
28 herein.

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5 19. Pursuant to 28 U.S.C. §1364, 16 GCA §17101, and 22 GCA §18305
6 plaintiff is entitled to recover from defendant as the insurer of
7 the Korean Consulate of Guam in an amount equal to any judgment
8 recovered, up to the statutory and or policy limits, as the result
9 of the negligence of Miok Myn Kwak in the operation of the Civic.
10
11

12 **DEMAND FOR RELIEF**

13
14 WHEREFORE, plaintiffs pray Judgment be entered against defendants
15 as follows:
16

17 1. For general damages for personal injury of Elsa M. Santos
18 in the sum of \$100,000.00;
19

20 2. For past and future medical and incidental expenses of
21 Elsa M. Santos in an amount to be proven at trial;
22

23 3. For lost income and other opportunities of Elsa M. Santos
24 in an amount to be proven at trial;
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26 4. For loss of consortium of Gerardo Santos in the sum of
27 \$50,000.00;
28

1 COMPLAINT

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4
5 5. For costs of suit; and

6
7 6. For such other and further relief as the Court deems
8 proper.

9
10 LAW OFFICE OF ROBERT L. KEOGH
Attorneys for Plaintiffs

11
12
13 DATE: 11/1/05

14 By: 

15 ROBERT L. KEOGH

CIVIL COVER SHEET

05-00031

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ELSA M. SANTOS and GERARDO SANTOS

(b) County of Residence of First Listed Plaintiff Guam
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) Tel: 472-6895
Law Office of Robert L. Keogh
P.O. Box GZ Hagatna, GU 96932

DEFENDANTS

DONGBU INSURANCE COMPANY, LTD.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1364

Brief description of cause: This is an action for damages for personal injuries and loss of consortium arising from a traffic accident.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** \$150,000.00 plus **JURY DEMAND:** ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET

DATE

SIGNATURE OF ATTORNEY OF RECORD

Robert L. Keogh

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

RECEIVED
NOV - 1 2005
DISTRICT COURT OF GUAM
HAGATNA, GUAM